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COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 16 of the provisional agenda

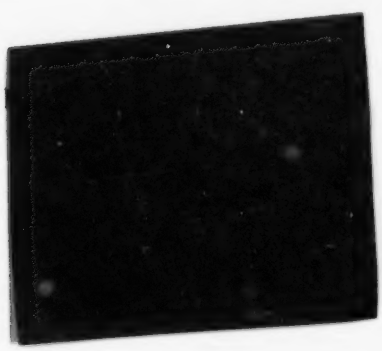
REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Minimum humanitarian standards

Report of the Secretary-General prepared pursuant to Commission resolution 1996/26

Addendum

The present document contains comments submitted by the Government of Germany.



GE.97-10573 (E)

Germany

[Original: English]
[12 December 1996]

1. The Federal Republic of Germany is a free democratic State governed by the rule of law. The Federal Republic of Germany stands up for inviolable and inalienable human rights as the basis for any community of people, and for peace and justice in the world. As a matter of principle, the basic-right guarantees in the Constitution must not be made the subject of any change inasmuch as they are unrenouncable for keeping an order commensurate with the principle of human dignity and with the commitment to human rights. The basic elements of the equality principle - equal protection of the laws and unlawfulness of arbitrary rule - are inviolable.

2. Also in a state of emergency, i.e. especially during a state of tension and a state of defence (external state of emergency: crisis and war), the basic rights remain in force under the Basic Law (Grundgesetz, GG), i.e. the Constitution of the Federal Republic of Germany. The basic rights guaranteed by the Basic Law are binding upon the legislature, the executive and the judiciary as directly enforceable law (Basic Law, art. 1, para. 3).

3. The criteria listed in paragraph 3 of Commission resolution 1996/26 are contained in article 3, paragraph 3, first sentence, of the Basic Law ("colour" is subsumed under "race"). The provisions of article 3, paragraph 3, of the Basic Law will not be revoked or restricted in any of the various states of emergency addressed in the Basic Law (internal emegency: art. 35, paras. 2, 3; art. 87a, para. 4; art. 91; external emergency: art. 115a et seq.).

4. Under article 3, paragraph 3, first sentence, of the Basic Law, nobody "shall be prejudiced or favoured because of their sex, birth, race, language, national or social origin, faith, religion or political opinions".

5. Within the value system of the basic rights, these prohibitions of discrimination are specified instances of the general principle of equality as already guaranteed by article 3, paragraph 1, of the Basic Law ("All people are equal before the law."). Any discrimination on the grounds listed above is prohibited by the Basic Law.